

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 16-0380V

Filed: October 25, 2016

UNPUBLISHED

MARLENE CIMONS,

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Petitioner,

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V.
SECRETARY OF HEALTH
AND HUMAN SERVICES,

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Attorneys' Fees and Costs;

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Special Processing Unit ("SPU")

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Respondent.

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Paul R. Brazil, Muller Brazil, LLP, Dresher, PA, for petitioner.

Darryl R. Wishard, U.S. Department of Justice, Washington, DC, for respondent.

DECISION ON ATTORNEYS' FEES AND COSTS¹

Dorsey, Chief Special Master:

On March 24, 2016, Marlene Cimons ("petitioner") filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*,² (the "Vaccine Act"). Petitioner alleged that she suffered left shoulder injuries as a result of a pneumococcal conjugate vaccine she received on December 18, 2014. Petition at 1-2. On September 12, 2016, the undersigned issued a decision awarding compensation to petitioner based on the parties' joint stipulation. (ECF No. 18).

On October 21, 2016, petitioner filed a motion for attorneys' fees and costs. (ECF No. 22 and 23). Petitioner requests attorneys' fees in the amount of \$12,282.50,

¹ Because this unpublished decision contains a reasoned explanation for the action in this case, the undersigned intends to post it on the United States Court of Federal Claims' website, in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2012) (Federal Management and Promotion of Electronic Government Services). In accordance with Vaccine Rule 18(b), petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, the undersigned agrees that the identified material fits within this definition, the undersigned will redact such material from public access.

² National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all "\$" references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2012).

and attorneys' costs in the amount of \$486.22 for a total amount of \$12,768.72. *Id.* at 2. In accordance with General Order #9, petitioner's counsel represents that petitioner incurred no out-of-pocket expenses.

On October 21, 2016, petitioner filed an amended application for attorneys' fees and costs, requesting the same amount for fees and costs of \$12,768.72, and stating respondent has reviewed the application and has no objection to petitioner's motion. (ECF No. 23).

The Vaccine Act permits an award of reasonable attorneys' fees and costs. § 15(e). Based on the reasonableness of petitioner's request and the lack of opposition from respondent, the undersigned **GRANTS** petitioner's motion for attorneys' fees and costs.

Accordingly, the undersigned awards the total of \$12,768.72³ as a lump sum in the form of a check jointly payable to petitioner and petitioner's counsel Muller Brazil, LLP.

The clerk of the court shall enter judgment in accordance herewith.⁴

IT IS SO ORDERED.

s/Nora Beth Dorsey
Nora Beth Dorsey
Chief Special Master

³ This amount is intended to cover all legal expenses incurred in this matter. This award encompasses all charges by the attorney against a client, "advanced costs" as well as fees for legal services rendered. Furthermore, § 15(e)(3) prevents an attorney from charging or collecting fees (including costs) that would be in addition to the amount awarded herein. See generally *Beck v. Sec'y of Health & Human Servs.*, 924 F.2d 1029 (Fed. Cir.1991).

⁴ Pursuant to Vaccine Rule 11(a), entry of judgment can be expedited by the parties' joint filing of notice renouncing the right to seek review.